

Office of the Mayor
Tony T. Yarber, Mayor



219 South President Street
Post Office Box 17
Jackson, Mississippi 39205-0017
Telephone: 601-960-1084
Facsimile: 601-960-2193

October 6, 2016

Ms. Heather McTeer Toney
Regional Administrator
Region 4
Atlanta Federal Center
61 Forsyth Street
Atlanta, Georgia 30303-8960

RE: Jackson, Mississippi Clean Water Act Consent Decree

Dear Administrator Toney:

It is with grave concern that I reach out to you to advise you about the City of Jackson's progress under its Clean Water Act Consent Decree. Until recently, the City has made great strides in implementing the program under the Consent Decree designed to alleviate and, eventually, to eliminate the instances of noncompliance with the City's NPDES permits and the Clean Water Act. Unfortunately, positions taken by the City Council are now interfering with and jeopardizing the City's ability to continue in compliance with the Consent Decree. Pursuant to the City's obligation to advise the EPA of any event that may delay performance, as Mayor, I am advising you that the refusal of the City Council to address the hiring of a program manager for Consent Decree may result in the City being unable to meet certain deadlines under the Consent Decree.

Beginning in 2015, the Department of Public Works began in the process of a competitive proposal process for the Consent Decree program manager. The process involved the advertising of a Request for Proposals, review and evaluation of the proposals, and, ultimately, a recommendation to me of the best proposer. An Evaluation Committee consisting of City employees involved with the implementation of the Consent Decree and a representative of the one of the City's regional customers, the City of Ridgeland, reviewed the proposals and heard presentations from all companies submitting proposals. At the end of the process, the Evaluation Committee made a unanimous recommendation of one of the proposers to the Director of the Department of Public Works, who communicated that recommendation to me.

I placed on the agenda of the City Council for its May 31, 2016 meeting an item to authorize a contract with the proposer recommended by the Evaluation Committee. The Vice President of the City Council, in the absence of the Council President, assigned the item to the Rules Committee. On June 6, 2016, the Rules Committee met to take up the item. Following exhaustive discussion and what I believed were appropriate and full responses to the questions of

the four Rules Committee members, the Rule Committee voted unanimously not to report the item out of committee.

I again placed the item on the agenda for the next regular City Council meeting on June 14, 2016. Prior to the meeting, I concluded that the item would not be voted on successfully. This would have resulted in the item being rejected for a second time. Under our City ordinances, an item may not be placed on the agenda for one year, if it is rejected a second time. Such a result would have required the City to conduct a new proposal process, resulting unacceptable delay. To avoid this outcome, I pulled the item from the agenda.

I again placed on the agenda of the City Council for its August 9, 2016 meeting an order authorizing a contract with the recommended proposer. Between June 14 and August 9, I did not receive any direction from the City Council about the awarding of a contract for a Consent Decree Program Manager. I was, at that time, being advised that if work on certain elements of the Consent Decree, particularly the hydraulic modeling and the GIS mapping, did not begin in earnest, the City might not be able to meet the February 2017 deadline for submitting the Sewershed Prioritization Report. Despite time constraints of which the City Council has been thoroughly briefed and advised, the City Council has failed to take action. At the August 9, 2016 meeting, the President assigned the item to the Rules Committee again. At that time, I asked of the City Council that they advise me about how they wished to move forward with the hiring of a program manager.

After two months, the Rules Committee did not convene to take up the item. Due to the looming deadlines, I requested at the October 4, 2016 meeting that the Rules Committee meet to consider the item and either vote the item out of Committee or provide me with some acceptable direction. The Rule Committee Chair schedule a meeting on October 6, 2016 at which the Committee considered the item and failed to vote the item out of Committee. Neither the Committee nor the Council as a whole has provided any further direction to me as to retaining a Program Manager. By failing to vote the item out of Committee a second time, this selection for program manager is dead and must begin anew.

The failure of the City Council to approve the Department of Public Work's recommendation to contract with the best proposer for Consent Decree Program Management is now affecting the City's ability to meet the next scheduled deadline, the submission of the Sewershed Prioritization Report. The Prioritization Report requires, at a minimum, the following:

- (a) The results of flow monitoring conducted pursuant to the Prioritization Work Plan and estimates of the severity of I/I within each Sewershed.
- (b) The computerized digital map of the Sewer System.
- (c) The results of the capacity assessment of the WCTS.
- (d) The results of the Hydraulic Model.

(e) The results of applying to each Sewershed the prioritization criteria approved in the Prioritization Work Plan.

(f) An organization of the Sewersheds into three (3) Sewer Groups, based upon the severity of I/I, and other criteria set forth in Paragraph 24(e), with the most severe being prioritized into Sewer Group 1.

Presently, the flow monitoring is complete. However, the computerized digital map of the Sewer System, the capacity assessment of the WCTS, and the Hydraulic Model were components that were to be within the scope of work of the Program Manager. At this point in time, without the services of a Program Manager none of this work will be completed in time to submit the Prioritization Report. Even if the City Council decided today to authorize the hiring of the recommended proposer as program manager, which is unlikely, the City would be hard-pressed to meet the existing deadline.

The lack of a Program Manager can also be expected to affect the implementation of the recently approved Fats, Oils, and Grease and Private Sewer Lateral Enforcement CMOM Programs. The Department of Public Works retains a limited engineering staff and depends upon staff augmentation by a program manager to provide support for the implementation of CMOM Programs. The Department also needs the expertise of a program manager to analyze the Composite Correction Plan, options presented under that Plan, and other innovative solutions begin presented to the City to bring the Savanna Street WWTP into compliance with its NPDES Permit. The danger exists that without additional technical assistance that could be provided by an experienced program management team the City may not be able to implement the improvements to the Savanna Street WWTP in compliance with the deadlines currently existing in the Consent Decree.

The failure of the City Council to act is hamstringing the efforts of the Department of Public Works to comply with and implement the Consent Decree. I have diligently supported the Department's efforts, but as a former mayor of a municipality in Mississippi, which, like the City of Jackson, operates under the Mayor-Council form of government, you must understand that I cannot take the action needed to hire a Program Manager or any other needed technical assistance without the cooperation and action of the City Council.

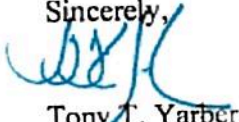
Having come into office with a commitment to regulatory compliance and having intended to make infrastructure repair and improvement a cornerstone of my Administration, I take no pleasure or even comfort in advising you of the City's current situation. Having at least complied with the requirement of the Consent Decree to advise you of any event that has occurred that will likely delay performance of certain obligations under the Consent Decree, I now hope that election year politics can be set aside for the greater responsibility of the City fulfilling its Consent Decree obligations in a timely manner.

Please reach out to me with any questions you may have or with any advice that you would share. I will update you with any developments to this situation involving the City Council's

Ms. Heather McTeer Toney
October 6, 2016
Page 4

failure to move forward with the hiring of a program manager, who is essential to the City's continued compliance with its Consent Decree.

Sincerely,



Tony T. Yarber
Mayor

cc: William Bush, Region IV, Office of Regional Counsel
Karl Fingerhood, U.S. Department of Justice
Monica D. Joiner, City Attorney
Jerriot Smash, Interim Director, Department of Public Works
Terry Williamson, Legal Counsel and Consent Decree Manager
Members of the City of Jackson City Council



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 02 2016

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RETURN RECEIPT REQUESTED

Mayor Tony T. Yarber
City of Jackson
219 South President Street
P.O. Box 17
Jackson, Mississippi 39205-0017

Re: City of Jackson, Mississippi, Clean Water Act Consent Decree,
Civil Action No. 3:12-cv-790 TSL-JMR

Dear Mayor Yarber:

The Environmental Protection Agency Region 4 is responding to your letter dated October 6, 2016, to Ms. Heather McTeer Toney, Regional Administrator of U.S. EPA Region 4, in which you stated that the City has failed to hire an outside contractor to serve as the Program Manager for Consent Decree work. You assert in your letter, that not having the services of a Program Manager is now interfering with and jeopardizing the City's ability to comply with the Consent Decree.

Specifically, you state that the Prioritization Report (required pursuant to Paragraph 25 of the Consent Decree) will very likely not be timely submitted because several of its components, i.e., the computerized digital map of the Wastewater Collection and Transmission System (WCTS), the capacity assessment of the WCTS and the Hydraulic Model were to be within the scope of work of the proposed Program Manager. In addition, you mention that lack of a Program Manager will affect the implementation of the recently approved Fats, Oils and Grease Program (required pursuant to Paragraph 39 of the Consent Decree), the Private Sewer Lateral Program (required pursuant to Paragraph 36 of the Consent Decree), and potentially other Capacity Management, Operation, and Maintenance Programs required by the Consent Decree. Finally, you mention that the proposed Program Manager was also going to analyze the Savanna Street Wastewater Treatment Plant Composite Correction Program and thus, the City may not be able to implement this program in a timely manner as required by Paragraph 30 of the Consent Decree.

The programs mentioned above are some of the core requirements of the Consent Decree necessary for the City to effectively meet its objectives, which are to achieve and maintain full compliance with the Clean Water Act, the Mississippi Air and Water Pollution Control Law, and the City's National Pollutant Discharge Elimination System permits. The City's failure to comply with the Consent Decree will thus continue the serious threat to human health and the environment, caused by the

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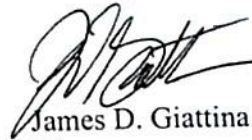
City's ongoing violations of the Clean Water Act and the Mississippi Air and Water Pollution Control Law as a result of unpermitted releases of raw sewage (Sanitary Sewer Overflows) and unpermitted bypasses of raw sewage at the Savanna Street Wastewater Treatment Plant. The EPA expects the City to fully comply with the Decree and is prepared to take the necessary measures to enforce its requirements. The EPA reminds the City that it is liable for stipulated penalties of up to \$2,000 per day for each failure to timely submit a deliverable under the Consent Decree pursuant Paragraph 65.(c). In addition, the City is liable for stipulated penalties of up to \$5,000 per day per violation for failure to timely implement a work requirement under the Consent Decree pursuant to Paragraph 65.(d).

Because your letter raises numerous issues and questions regarding the City's current and future compliance with the Consent Decree, the City should expect to receive from the EPA in the near future an information request pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, seeking more detailed information on the status of the City's compliance, including implementation of previously approved programs submitted pursuant to the Consent Decree.

Finally, we understand that your letter to the Regional Administrator was sent pursuant to the City's obligations under Paragraph 74 of the Consent Decree to notify the EPA of any event that delays or may delay the City's performance under the Consent Decree. However, please note that all notices pursuant to the Consent Decree must be made in accordance with Section XVI of the Consent Decree.

If you should have any questions regarding this letter, please contact Mr. Brad Ammons at (404) 562-9769 or via email at ammons.brad@epa.gov. Your legal counsel may contact Mr. William Bush at (404) 562-9758 or via email at bush.william@epa.gov.

Sincerely,



James D. Giattina
Director
Water Protection Division

cc: Mr. Jerriot Smash
Public Works Director, City of Jackson

Ms. Monica D. Joiner
City Attorney, City of Jackson

Mr. Tim Aultman
Environmental Compliance and Enforcement Division
Mississippi Department of Environmental Quality

Mr. Karl Fingerhood
U.S. Department of Justice

Cody, Karen

From: Sayre, Dennis
Sent: Thursday, November 10, 2016 11:13 AM
To: Terry Williamson
Subject: RE: Jackson CCP

Okay, thanks Terry. I think that's it, I go ahead and approve the submittal with comments to resubmit the Gantt chart as mentioned below. Also, we've had the financing and cost analysis program document too long. I think it meets the intent of the CD so I'll go ahead and send an approval for it with a comment to update and resubmit as appropriate to meet any changes in the way things are currently being done, or need to be done. Any thoughts on how the financing and cost analysis needs may have changed since Sept 2014?

Dennis J. Sayre | Environmental Engineer | Inspector
NPDES Permitting and Enforcement Branch | Municipal & Industrial Enforcement Section
U.S. EPA Region 4 | 61 Forsyth St., SW | Atlanta, Georgia 30303
(404) 562-9756

"You'll never get to your destination if you stop to throw stones at every dog that barks." -Winston Churchill

From: Terry Williamson [mailto:twilliamson@city.jackson.ms.us]
Sent: Thursday, November 10, 2016 11:03 AM
To: Sayre, Dennis <Sayre.Dennis@epa.gov>
Cc: Les Herrington <LHerrington@mdeq.ms.gov>
Subject: RE: Jackson CCP

I agree that it appears confusing the way in which it is laid out. All of those items of work fall under the schedule for Project No. 2 Miscellaneous Plant Improvements and timeline. The Influent Pump Station, Preliminary Treatment, Disinfection System, Electrical, and Biosolids items are what constitutes Project No. 2 and the timeline set forth there.

Let me know if you have any additional questions.

Terry Williamson
City of Jackson, Mississippi
Direct: 601.960.2287

From: Sayre, Dennis [mailto:Sayre.Dennis@epa.gov]
Sent: Tuesday, November 01, 2016 6:54 AM
To: Terry Williamson
Cc: Les Herrington
Subject: Jackson CCP

Good morning Terry,

Almost done with the CCP review. One question: on the Gantt Chart (after page 12-2 labeled Savanna WWTP CCP Schedule), under the Short Term Corrective Actions. There is no schedule for work for the following items: Influent Pump Station, Preliminary Treatment, Disinfection System, Electrical, and Biosolids. Please explain. Once the CCP is approved, the City will need to resubmit the Gantt Chart as an addendum to replace the CCP with adjusted dates to reflect that the City has 24 months for the Short Term actions and 60 mos for the Long Term actions from the date of approval, unless y'all are on schedule with this chart.

3	Short-Term Corrective Actions	852 days	Fri 4/1/16	Tue 7/31/16
4				
5	Negotiate New O&M contract	237 days	Wed 3/9/16	Mon 10/31/16
6				
7	Project No. 1 Biological Process Improvements			
8	Design	243	Fri 7/1/16	Tue 2/28/17
9	Bidding and Award	122	Wed 3/1/17	Fri 6/30/17
10	Construction	396	Sat 7/1/17	Tue 7/31/17
11	New Clarifier No. 6			
12	Clarifier mechanism replacement 1, 2 and 3			
13	Clarifier Splitter box modifications			
14	RAS flow meters			
15	RAS pump			
16				
17	Project No. 2 Miscellaneous Plant Improvements			
18	Design	276 days	Fri 7/29/16	Sun 4/30/17
19	Bidding and Award	123 days	Mon 5/1/17	Thu 8/31/17
20	Construction	334 days	Fri 9/1/17	Tue 7/31/18
21	Influent Pump Station			
22	Repairs to ex. Station (pumps, trash racks, structure) to maintain operation until new station is online			
23	Replace 84" line to EQ basin w/60" DIP			
24	Add remote/auto control to IPS pumps			
25	Preliminary Treatment			
26	Screen and grit chamber rehab			
27	Concrete modifications to improve hydraulics to anoxic basin effluent channel			
28	Disinfection System			
29	New chlorine feed equipment			
30	Feed Control Improvements			
31	New gas storage building			
32	Disinfection Equipment Building upgrades			
33	Electrical			
34	Repair/Replace existing generators & ATSs			
35	Distribution System Upgrades			
36	Biosolids			
37	Cover the Storage Area			
38				
39	Long-Term Corrective Actions	1829 days	Fri 7/29/16	Sat 7/31/21
40				
41	Project No. 1 Biosolids Improvements			

Dennis J. Sayre | Environmental Engineer | Inspector
NPDES Permitting and Enforcement Branch | Municipal & Industrial Enforcement Section
U.S. EPA Region 4 | 61 Forsyth St., SW | Atlanta, Georgia 30303

(404) 562-9756

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61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 14 2016

CERTIFIED MAIL 7016 0600 0000 3846 7725
RETURN RECEIPT REQUESTED

City of Jackson
c/o Mr. Jerriot Smash
Interim Director
Department of Public Works
P.O. Box 17
Jackson, Mississippi 39205-0015

Re: Information Request – Section 308 of the Clean Water Act
City of Jackson, Mississippi Consent Decree
Case No.: 3:12-cv-790 TSL-JMR

Dear Mr. Smash:

Pursuant to Section 308 of the Clean Water Act (CWA), 33 U.S.C. § 1318, the U.S. Environmental Protection Agency hereby requests the City of Jackson (the City) to provide the information set forth in Enclosure A regarding compliance with the Consent Decree (CD) noted above. The City is required to respond to this information request within thirty (30) days of its receipt of this letter. The response should be directed to:

Mr. Dennis Sayre
U.S. Environmental Protection Agency, Region 4
NPDES Permitting and Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

The City's response to this information request should specifically reference the particular section and number of the request and should be organized for the purpose of clarity. In addition, all information submitted must be accompanied by the following certification signed by a responsible City official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my

knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply with this information request may result in enforcement proceedings under Section 309 of the CWA, 33 U.S.C. § 1319, which could result in the judicial imposition of civil or criminal penalties or the administrative imposition of civil penalties. In addition, there is potential criminal liability for the falsification of any response to the requested information.

The City shall preserve until further notice all records (either written or electronic) which exist at the time of receipt of this letter that relate to any of the matters set forth in this letter. The term "records" shall be interpreted in the broadest sense to include information of every sort. The response to this information request shall include assurance that these record protection provisions were put in place, as required. No such records shall be disposed of until written authorization is received from the Chief of the NPDES Permitting and Enforcement Branch at the U.S. EPA, Region 4.

If you have questions regarding this notice and information request, please feel free to contact Mr. Dennis Sayre at (404) 562-9756.

Sincerely,



Denisse D. Diaz, Chief
NPDES Permitting and Enforcement Branch
Water Protection Division

Enclosure

cc: Mr. Les Herrington, P.E.
Mississippi Department of Environmental Quality

Mayor Tony Yarber
City of Jackson

Mr. Terry Williamson
City of Jackson

ENCLOSURE A

The following questions in this Enclosure are directly related to the October 6, 2016, letter (the Letter) from Mayor Tony Yarber, City of Jackson, to Ms. Heather McTeer Toney, Regional Administrator, EPA Region 4, and to the City's 7th Semi-Annual Report, submitted pursuant to Paragraph 57.b of the CD:

1. In the Letter, the City represents that failure of the City "to approve the Department of Public Work's recommendation to contract with the best proposer for Consent Decree Program Management is now affecting the City's ability to meet the next scheduled deadline" in submitting the Prioritization Report and other Work (as defined in Paragraph 8.rr of the CD). The EPA has the following questions:
 - a. With respect to the West Bank Interceptor Rehabilitation Plan which the EPA approved on October 13, 2016, please explain in detail how the plan is impacted in the absence of a contracted Program Manager (PM), including specifically the scheduled Work contained in the plan.
 - b. The Sewershed Prioritization Report is due to the EPA, pursuant to Paragraph 25 of the CD, on or before February 17, 2017. Please explain in detail how the Prioritization Report is impacted by the absence of a contracted PM, including all items listed in Paragraph 25(a) through 25(g) of the CD.
 - c. The EPA received the City's Composite Correction Plan (CCP) on April 26, 2016. Assuming the EPA approves the plan as submitted, explain in detail how the CCP is impacted by the absence of a contracted PM, including specifically the implementation schedule associated with the plan.
 - d. Explain in detail how the following approved Capacity, Management, Operation and Maintenance (CMOM) programs are impacted by the absence of a contracted PM, including specifically the implementation schedules associated with each program.
 - i. Training Program
 - ii. Sanitary Sewer Overflow Response Plan
 - iii. Inter-Jurisdictional Agreement Program
 - iv. Private Lateral Program
 - v. Pump Station Operations Program
 - vi. Fats, Oils, and Grease Program
 - vii. Gravity Line Preventive Maintenance Program
 - viii. Wastewater Treatment Plant Operation and Maintenance Program
 - e. The EPA provided comments to the City in a letter dated September 28, 2016, on the Water Quality Monitoring Program which the City received on October 6, 2016. Pursuant to Paragraph 13 of the CD, and as stipulated in the comment letter, the City must resubmit a revised Water Quality Monitoring Program deliverable on or before December 5, 2016. Please explain in detail how resubmittal and implementation of the Water Quality Monitoring Program has been and will be impacted by the absence of a contracted PM.

ENCLOSURE A

- f. The City's "13th Quarterly Report" was due to the EPA by July 30, 2016, which the EPA received on August 9, 2016. The City's "7th Semi-Annual Report" was due by August 30, 2016, which the EPA received on October 24, 2016. Please explain the delay in the timely submission of these reports and whether such delay was related to the absence of a contracted PM.
- g. Provide receipts of Escrow payments due on August 1, 2014, and August 1, 2016, pursuant to Paragraph D.1 of Appendix F of the CD.